Filed 8/10/10 Marriage of Kin CA2/1

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re the Marriage of LONNA and ISRAEL MEIR KIN. _____ ISRAEL MEIR KIN, Respondent, v. LONNA KIN, Appellant.	B217057 (Los Angeles County Super. Ct. No. BD465219)

APPEAL from a judgment of the Superior Court of Los Angeles County. Steff Padilla, Commissioner. Affirmed.

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Douglas Honig for Appellant.

Kermisch & Paletz and William Kermisch for Respondent.

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Lonna Kin appeals from the judgment in this marital dissolution proceeding, contending that the trial court erred by failing to divide an alleged marital asset. We affirm.

BACKGROUND

On May 2, 2007, Israel Meir Kin filed a petition for dissolution of his marriage to Lonna Kin.[1] The petition sought a "status only" dissolution and alleged that there were no minor children "that are subject to this court's jurisdiction" and no community or quasi-community assets "subject to disposition by the court in this proceeding."

On June 18, 2007, Lonna filed a response to the petition, requesting dissolution or in the alternative nullity of the marriage. In her response, Lonna agreed "[a]t this time" that there are no minor children subject to the court's jurisdiction. As for community or quasi-community assets, however, she listed exactly one: "a 'get', or a Jewish bill of divorce."

The parties later stipulated, and the court ordered pursuant to the stipulation, that "[a]ny and all community property, other than the alleged community property specifically mentioned in the pleadings, will not be at issue" in this case. As a result, the only matters to be resolved in the proceeding were the dissolution or annulment of the marriage and the dispute over the get.

In her response to the petition, Lonna explained the get issue as follows: "[Israel] and [Lonna] are both observant, Orthodox Jews. As such, [Lonna] may not remarry unless her husband divorces her under Jewish law by presenting her with a Jewish bill of divorce that is called a 'get'." Lonna alleged that Israel had "attempted to exact substantial amounts of money" from her before he would execute and deliver to her a get, and she alleged that his demands for money showed the get is "a marital asset of

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1 As is customary in marital dissolution actions, for the sake of clarity and simplicity of expression we will henceforth refer to the parties by their first names. (*In re Marriage of Smith* (1990) 225 Cal.App.3d 469, 475-476, fn. 1.) No disrespect is intended.

considerable value." Accordingly, Lonna asked that she be awarded her community share of the value of the get.[2]

The case proceeded to a five-day bench trial, at which the court heard sworn testimony and received documentary evidence. The court entered judgment of nullity on April 23, 2009, on the ground that the marriage was bigamous, although the court found that both Israel and Lonna "had good cause to and did believe that the marriage to each other was valid." The court further found as a matter of fact that "there has not been any GET (Jewish Bill of Divorce) given by [Israel] to [Lonna]." The court concluded, however, that it lacked "the legal authority to address any issue regarding or relating to the GET, including the value of the GET, if any, any determination as to credibility of the parties on GET related issues nor whether or not there was a demand for money by [Israel] from [Lonna] in exchange for issuing the GET." Lonna timely appealed from the judgment.

DISCUSSION

All of Lonna's arguments on appeal concern her contention that the get is a community or quasi-community asset and that the trial court consequently erred by refusing to award half its value to her. The contention lacks merit because the parties concede, and the trial court found, that the get does not exist. Because it does not exist, it is not an asset of Israel, Lonna, or anyone else.

Assuming for the sake of argument that Lonna is right that Israel has demanded money in exchange for a get, that does not turn "the get" into a presently existing item of property—it means only that Israel is requiring Lonna to pay him before he will do something for her (namely, execute and deliver to her a get that ends their marriage under Jewish law). But Israel's alleged demand for money does not transform the contemplated but as-yet-unperformed act of giving Lonna a get into a presently existing item of marital

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[2] Lonna also made various alternative requests for relief concerning the get (for example, she asked the court to "require [Israel] to provide her a 'get'"), but only her request for her share of the get's value as a marital asset is at issue on this appeal.

property, any more than a demand for money in exchange for other conduct would turn that conduct into presently existing property.

Lonna cites no authority that would support a contrary conclusion. She relies on *Douglas Aircraft Company, Inc. v. Byram* (1943) 57 Cal.App.2d 311, for the proposition that a common characteristic of a property right is that it may be disposed of or transferred to another. She also cites *In re Marriage of Lorenz* (1983) 146 Cal.App.3d 464, and *Todd v. Todd* (1969) 272 Cal.App.2d 786, for the proposition that intangible assets that have a monetary value can be community assets. Because no get concerning the Kins' marriage exists, however, those authorities are inapplicable. And Israel's *right* to give Lonna a get is irrelevant, because Lonna cites no evidence that Israel has ever placed a monetary value on his right to give her a get, or that the right is transferable at all.[3]

Because "the get" does not exist and thus is not a community or quasi-community asset, the trial court did not err by failing to award half the alleged value of "the get" to Lonna. Our resolution of this issue makes it unnecessary for us to address any other arguments raised by the parties.[4]

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[3] Lonna cites an expert witness's testimony that a husband can designate an agent to draft, execute, and deliver a get, but that testimony has no tendency to show that the husband's right to give a get is transferable. The witness testified, in effect, that the husband can designate an agent to handle the paperwork, but the decision on whether to give a get is always ultimately the husband's ("He is the one that has to do it").

[4] In his respondent's brief, Israel requests sanctions on the ground that Lonna's appeal is frivolous and has been pursued for an improper purpose. We deny the request because it is procedurally improper. (*Kajima Engineering & Construction, Inc. v. Pacific Bell* (2002) 103 Cal.App.4th 1397, 1402; Cal. Rules of Court, rule 8.276.)

DISPOSITION

The judgment is affirmed. Respondent shall recover his costs of appeal.

NOT TO BE PUBLISHED.

ROTHSCHILD, J.

We concur:

MALLANO, P. J.

JOHNSON, J.